

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7390

BILL NUMBER: HB 1432

NOTE PREPARED: Jan 12, 2015

BILL AMENDED:

SUBJECT: Regulation of E-Liquids.

FIRST AUTHOR: Rep. Mahan

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill requires a manufacturer that manufactures, bottles, or stores e-liquid to have a permit issued by the Alcohol and Tobacco Commission (ATC). The bill establishes requirements to obtain a permit to manufacture e-liquid. It also establishes penalties for not complying with the terms of the permit.

The bill prohibits a retailer from selling e-liquid: (1) to a minor; (2) that is purchased from a manufacturer that does not have a permit; or (3) that has been altered or tampered with.

It allows a permit holder to bring a civil action for violations of the e-liquids laws.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Alcohol and Tobacco Commission:* The bill states that the ATC would be responsible for the enforcement and administration of the permits and regulations of e-liquids. The bill requires the ATC, among other duties and responsibilities, to issue permits, audit facilities that manufacture e-liquids, and ensure that e-liquid manufactured or sold in Indiana conforms to certain standards.

The bill's requirements represent an additional workload and expenditure on the ATC outside of the agency's routine administrative functions. Existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

State Police Department: The bill requires the State Police Department (SPD) to complete a state or national criminal history background check of all applicants for e-liquid manufacturing permits. The total increase in costs to the SPD will depend on the number of people applying for manufacturing permits. If the SPD does not need to hire an additional person to conduct the additional background checks, the costs would likely be offset by the fees charged to persons requesting background checks.

Explanation of State Revenues: *Summary* - This bill could potentially increase revenue to the state General Fund and other state funds from the following sources.

Revenue Source	Fund(s) Affected
Manufacturing permit application fees	General Fund
Criminal history background check fees	General Fund; Indiana Office of Technology Portal Fund
Civil penalties for permit violations	General Fund
Civil penalties for sales of e-liquid to minors	Richard D. Doyle Youth Tobacco Education/Enforcement Fund
Court fees	General Fund; State User Fee Fund

Additional Information -

Manufacturing Permits: The bill requires manufacturers of e-liquid to obtain a permit from the ATC. The ATC may issue such permits from July 1, 2015, to June 30, 2016. The initial application fee is \$5,000. Permits must be renewed every five years, and applicants are required to pay a renewal fee of \$1,000. These provisions could result in a one-time increase in revenue, depending on the number of applicants for manufacturing permits, and a smaller increase in revenue every five years thereafter, depending on the number of manufacturers applying for renewal. Revenue from application fees would be deposited in the state General Fund.

Criminal History Background Checks: The fee for a state criminal history background check is \$7, \$15, or \$16.32, depending on the manner in which the request is submitted. Revenue is deposited in the General Fund and the Indiana Office of Technology Portal Fund. Persons requesting a national criminal history check pay a \$9.95 vendor processing fee, a \$14.50 or \$13 FBI fee, and a \$15 State Police fee which is deposited in the General Fund.

Permit Violations: If a manufacturer violates the terms of the permit, the manufacturer may be reprimanded, assessed a civil penalty of up to \$10,000, or have the manufacturer's permit suspended. Revenue to the General Fund could increase to the extent that the ATC assesses civil penalties on e-liquid manufacturers. The total increase will ultimately depend on the ATC's decisions regarding penalties.

Sales to Minors: The bill makes it a Class C infraction for a retailer to knowingly sell e-liquid to a person under the age of 18. The penalty is enhanced to a Class B infraction, habitual illegal sale of e-liquid, if the person commits at least six violations within a 180-day period. Civil judgments may be imposed in the following maximum amounts:

- \$200 for the first violation within the previous 180 days

- \$400 for the second violation within the previous 180 days
- \$700 for the third violation within the previous 180 days
- \$1,000 for subsequent violations within the previous 180 days

Civil penalties collected under this provision would be deposited in the Richard D. Doyle Youth Tobacco Education and Enforcement Fund.

Court Fee Revenue: In addition to the penalty for sales to a minor, the bill makes it a Class A infraction for a person to manufacture e-liquid without a permit and for a person to receive e-liquid from a person that does not hold a valid permit. It also allows a permittee to bring a civil action for violations of the e-liquids laws.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$5) are deposited into the State User Fee Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- A service fee (\$10) is collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: ATC, SPD.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

Fiscal Analyst: Lauren Tanselle, 317-232-9586.